

**STATE OF WASHINGTON
DEPARTMENT OF
ECOLOGY**

In the Matter of Remedial Action by:

AGREED ORDER

Phillips 66 Company and
City Investors XI L.L.C.

No. DE 19430

TO:

Phillips 66 Company
3900 Kilroy Airport Way, Suite 210
Long Beach, CA 90806

City Investors XI L.L.C
505 5th Avenue South, Suite 900
Seattle, WA 98104

TABLE OF CONTENTS

I.	INTRODUCTION.....	3
II.	JURISDICTION.....	3
III.	PARTIES BOUND.....	3
IV.	DEFINITIONS	3
V.	FINDINGS OF FACT	4
VI.	ECOLOGY DETERMINATIONS.....	7
VII.	WORK TO BE PERFORMED	8
VIII.	TERMS AND CONDITIONS.....	11
	A. Payment of Remedial Action Costs.....	11
	B. Designated Project Coordinators.....	11
	C. Performance.....	12
	D. Access.....	13
	E. Sampling, Data Submittal, and Availability.....	14
	F. Public Participation	14
	G. Retention of Records	15
	H. Resolution of Disputes	16
	I. Extension of Schedule	17
	J. Amendment of Order.....	19
	K. Endangerment.....	19
	L. Reservation of Rights	20
	M. Transfer of Interest in Property	21
	N. Compliance with Applicable Laws	21
	O. Periodic Review	23
	P. Indemnification	23
IX.	SATISFACTION OF ORDER.....	23
X.	ENFORCEMENT	24
	EXHIBIT A	Location Diagram
	EXHIBIT B	Scope of Work
	EXHIBIT C	Schedule of Deliverables

I. INTRODUCTION

The mutual objective of the State of Washington, Department of Ecology (Ecology), Phillips 66 Company, and City Investors XI L.L.C. under this Agreed Order (Order) is to provide for remedial action at a facility where there has been a release or threatened release of hazardous substances. This Order requires Phillips 66 Company and City Investors XI L.L.C. to implement the Scope of Work (SOW) (Exhibit B) and provide the associated deliverables per the schedule detailed in Exhibit C (Schedule of Deliverables). Ecology believes the actions required by this Order are in the public interest.

II. JURISDICTION

This Order is issued pursuant to the Model Toxics Control Act (MTCA), RCW 70A.305.050(1).

III. PARTIES BOUND

This Order shall apply to and be binding upon the Parties to this Order, their successors and assignees. The undersigned representative of each party hereby certifies that he or she is fully authorized to enter into this Order and to execute and legally bind such party to comply with this Order. Phillips 66 Company and City Investors XI L.L.C. agree to undertake all actions required by the terms and conditions of this Order. No change in ownership or corporate status shall alter Phillips 66 Company's or City Investors XI L.L.C.'s responsibility under this Order. Phillips 66 Company and City Investors XI L.L.C. shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors complies with this Order.

IV. DEFINITIONS

Unless otherwise specified herein, the definitions set forth in RCW 70A.305 and WAC 173-340 shall control the meanings of the terms in this Order.

A. Site: The Site is referred to as Block 37. The Site constitutes a facility under RCW 70A.305.020(8). The Site is defined by where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to

be located. Based upon factors currently known to Ecology, the Site is generally located at 600 – 630 Westlake Avenue North in Seattle, Washington, as shown in the Location Diagram (Exhibit A).

B. Block 37 Property: Refers to the real property within the Site, a rectangular city block comprising King County Parcel Nos. 1987200015, 4088803235, 4088803236, 4088803240, 4088803345, and 4088803355. This property has been referred to as Seattle City Block 77 in previous documents.

C. Parties: Refers to the State of Washington, Department of Ecology, Phillips 66 Company, and City Investors XI L.L.C.

D. Potentially Liable Persons (PLP(s)): Refers to Phillips 66 Company and City Investors XI L.L.C.

E. Agreed Order or Order: Refers to this Order and each of the exhibits to this Order. All exhibits are integral and enforceable parts of this Order.

V. FINDINGS OF FACT

Ecology makes the following findings of fact, without any express or implied admissions of such facts by Phillips 66 Company and City Investors XI L.L.C.:

A. Based upon factors currently known to Ecology, the Site is generally located at 600 – 630 Westlake Avenue North, and comprises the Block 37 Property and portions of the surrounding City of Seattle rights-of-way (ROWs), including Westlake Avenue North, Mercer Street, Valley Street, and Terry Avenue North. The Site is located in Seattle, Washington in the South Lake Union area, as shown in the Location Diagram (Exhibit A).

B. City Investors XI L.L.C. is the current owner of the Block 37 Property as recorded by King County, Washington, September 2000 (parcel 4088803236), March 2002 (parcels 4088803235, 4088803240, and 4088803345), and December 2014 (parcels 1987200015 and 4088803355). Phillips 66 Company previously owned the southern portion of the Block 37 Property (parcels 1987200015 and 4088803355) from April 2012 to December 2014.

C. Historical uses of the Block 37 Property include commercial and retail activities

starting in the late 1800s. Commercial activities until the early 1930s included a lumber mill, a creamery, and a brewery. A railroad occupied the northeast corner of the Block 37 Property (parcel 4088803236) from approximately the 1910s to 2005.

D. A retail gasoline service station operated on the northwestern portion of the Block 37 Property from about 1930 to approximately the mid-1960s. The underground storage tanks (USTs) associated with this facility were removed in 1990; petroleum contaminated soil was discovered during the UST removal. This facility is associated with a previously listed Site known as the Auto Service Company Site, Cleanup Site ID 5749 and Facility/Site ID 24436664.

E. A service garage operated intermittently on the northern portion of the Block 37 Property (parcels 4088803235, 4088803240, and 4088803345) from 1971 to 2002. Multiple complaints were received by Ecology in 1996 and 1997, suggesting that oil may have been discharged or leaked to the soil underneath the building via an oil changing pit located inside the service garage building. This facility is also associated with the previously listed Auto Service Company Site.

F. A retail gasoline and automobile service station operated on the southwestern portion of the Block 37 Property from approximately 1965 to 2008. At least two generations of USTs and fuel system configurations have existed at this facility. The first generation of USTs was removed in 1980 following discovery of a release of approximately 80 thousand gallons of leaded gasoline from a leaking product line. In May 2001, a product line was ruptured during removal of a waste oil tank and a heating oil tank from the facility, which resulted in a release of approximately 600 gallons of unleaded gasoline. In 2003, oil-contaminated soil was discovered in the vicinity of former hydraulic hoists upon their removal. This facility is associated with a previously listed Site known as the TOSCO 25535330857, Cleanup Site ID 6134 and Facility/Site ID 46445373, and was previously enrolled in Ecology's Voluntary Cleanup Program.

G. Most, if not all of Block 37 was within the Lake Union shoreline, which was filled to approximately its present position by the early 1900s. The Block 37 Property historically extended approximately 60 feet to the south of the current parcel boundary; this former extended

portion of the Block 37 Property was purchased by the City of Seattle in 2009 and incorporated into the Mercer Street right-of-way as part of the Mercer Corridor Project.

H. No permanent structures are currently present on Block 37. The southern portion of the Block 37 Property is predominantly gravel and used for temporary site offices, equipment staging for nearby construction projects, and temporary groundwater treatment facilities for construction dewatering. The northern portion of the Block 37 Property is paved and used as a parking lot.

I. Numerous environmental investigations and interim remedial actions have been conducted on the Block 37 Property and adjacent ROWs since 1980. Environmental investigations at Block 37 have documented the release of hazardous substances into soil and groundwater at concentrations exceeding potentially applicable cleanup levels under MTCA. Specific hazardous substances confirmed at the Site are total petroleum hydrocarbons as gasoline range organics (GRO); total petroleum hydrocarbons as diesel range organics (DRO); total petroleum hydrocarbons as oil range organics (ORO); benzene, toluene, ethylbenzene, and total xylenes (collectively, BTEX); naphthalene, polycyclic aromatic hydrocarbons (PAHs), and total lead in soil as well as GRO, DRO, ORO, methyl tertiary butyl ether (MTBE), BTEX, naphthalene, and total lead in groundwater. Cis-1,2-dichloroethene (cis-1,2-DCE) and vinyl chloride (VC) are also present in deeper groundwater beneath the Block 37 Property at concentrations that exceed potentially applicable MTCA cleanup levels. Interim remedial actions have included excavation and offsite disposal of petroleum contaminated soil, recovery and removal of liquid petroleum hydrocarbons, and implementation of soil vapor extraction and air sparging technologies.

VI. ECOLOGY DETERMINATIONS

Ecology makes the following determinations, without any express or implied admissions of such determinations (and underlying facts) by Phillips 66 Company and City Investors XI L.L.C.

A. Phillips 66 Company is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).

B. City Investors XI L.L.C. is an “owner or operator” as defined in RCW 70A.305.020(22) of a “facility” as defined in RCW 70A.305.020(8).

C. Based upon all factors known to Ecology, a “release” or “threatened release” of “hazardous substance(s)” as defined in RCW 70A.305.020(32), (13), respectively, has occurred at the Site.

D. Based upon credible evidence, Ecology issued a Preliminary Determination of Liability (PLP status letter) to Phillips 66 Company dated December 27, 2019, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500, notifying Phillips 66 Company of Ecology's proposed finding that Phillips 66 Company is a PLP at the Site. By letter dated January 24, 2020, Phillips 66 Company voluntarily waived its rights to notice and comment, accepted Ecology’s determination that Phillips 66 Company is a PLP at the TOSCO 25535330857 facility under RCW 70A.305.040 with regard to petroleum hydrocarbon contamination at the Site, and notified Ecology that it has no objection to Ecology's combination of the TOSCO 25535330857 facility with the Auto Services Company facility, located on the northern portion of the site, into a single site comprised of the entirety of Block 37. Ecology reserves its rights pursuant to WAC 173-340-500(4) to make final determinations for additional contaminants as the remedial actions continue.

E. Based upon credible evidence, Ecology issued a PLP status letter to City Investors XI, L.L.C. dated December 27, 2019, pursuant to RCW 70A.305.040, .020(26), and WAC 173-340-500. By letter dated January 23, 2020, City Investors XI L.L.C. voluntarily waived its rights to notice and comment and accepted Ecology’s determination that City Investors XI L.L.C. is a PLP under RCW 70A.305.040 with regard to petroleum hydrocarbon contamination at the Site. Ecology reserves its rights pursuant to WAC 173-340-500(4) to make final determinations for additional contaminants as remedial actions continue.

F. Pursuant to RCW 70A.305.030(1), .050(1), Ecology may require PLPs to investigate or conduct other remedial actions with respect to any release or threatened release of hazardous substances, whenever it believes such action to be in the public interest. Based on the foregoing facts, Ecology believes the remedial actions required by this Order are in the public interest.

G. Under WAC 173-340-430, an interim action is a remedial action that is technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance, that corrects a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed, or that is needed to provide for completion of a site hazard assessment, remedial investigation/feasibility study, or design of a cleanup action plan. Either party may propose an interim action under this Order. If the Parties are in agreement concerning the interim action, the Parties will follow the process in Section VII.D. If the Parties are not in agreement, Ecology reserves its authority to require interim action(s) under a separate order or other enforcement action under RCW 70A.305D, or to undertake the interim action itself.

VII. WORK TO BE PERFORMED

Based on the Findings of Fact and Ecology Determinations, it is hereby ordered that Phillips 66 Company and City Investors XI L.L.C. take the following remedial actions at the Site. These remedial actions must be conducted in accordance with WAC 173-340:

A. Phillips 66 Company and City Investors XI L.L.C. will complete and submit a Remedial Investigation and Feasibility Study, and complete and submit a preliminary draft Cleanup Action Plan (dCAP), for the Site. These documents must be prepared in accordance with the SOW and Schedule of Deliverables, Exhibits B and C, and all other requirements of this Order. The following naming conventions shall be used for documents: Agency Review Draft (designation for the first time Ecology receives a document); Public Review Draft (designates a document ready for public comment); Final (designation for a document after public comment and Ecology approval); and the preliminary dCAP.

B. If Phillips 66 Company or City Investors XI L.L.C. learns of a significant change in conditions at the Site, including but not limited to a statistically significant increase in contaminant and/or chemical concentrations in soil or groundwater, Phillips 66 Company or City Investors XI L.L.C., within seven (7) days of learning of the change in condition, shall notify Ecology in writing of said change and provide Ecology with any reports or records (including laboratory analyses, sampling results) relating to the change in conditions.

C. The PLPs shall submit to Ecology written monthly Progress Reports that describe the actions taken during the previous month to implement the requirements of this Order. All Progress Reports shall be submitted by the fifteenth (15th) day of the month in which they are due after the effective date of this Order. The PLPs may request a change to the Progress Report schedule in accordance with Section VIII.I (Extension of Schedule). Unless otherwise specified by Ecology, Progress Reports and any other documents submitted pursuant to this Order shall be sent by certified mail, return receipt requested, to Ecology's project coordinator. The Progress Reports shall include the following:

1. A list of on-site activities that have taken place during the month.
2. Detailed description of any deviations from required tasks not otherwise documented in project plans or amendment requests.
3. Description of all deviations from the SOW and Schedule (Exhibits B and C) during the current month and any planned deviations in the upcoming month.
4. For any deviations in schedule, a plan for recovering lost time and maintaining compliance with the schedule.
5. All raw data (including laboratory analyses) received during the previous quarter (if not previously submitted to Ecology), together with a detailed description of the underlying samples collected.
6. A list of deliverables for the upcoming month if different from the schedule.

D. All plans or other deliverables submitted by PLPs for Ecology's review and approval under the SOW (Exhibit B) and Schedule of Deliverables (Exhibit C) shall, upon Ecology's approval, become integral and enforceable parts of this Order.

E. If the Parties agree on an interim action under Section VI.G, the PLPs shall prepare and submit to Ecology an Interim Action Work Plan (IAWP), including a SOW and schedule, by the date determined by Ecology. Ecology will provide public notice and opportunity to comment on the (IAWP) in accordance with WAC 173-340-600(16). The PLP(s) shall not conduct the interim action until Ecology approves the IAWP. Upon approval by Ecology, the IAWP becomes an integral and enforceable part of this Order, and the PLPs are required to conduct the interim action in accordance with the approved IAWP.

F. If Ecology determines that the PLPs have failed to make sufficient progress or failed to implement the remedial action, in whole or in part, Ecology may, after notice to the PLPs, perform any or all portions of the remedial action or at Ecology's discretion allow the PLPs opportunity to correct. In an emergency, Ecology is not required to provide notice to the PLPs, or an opportunity for dispute resolution. The PLPs shall reimburse Ecology for the costs of doing such work in accordance with Section VIII.A (Remedial Action Costs). Ecology reserves the right to enforce requirements of this Order under Section X (Enforcement).

G. Except where necessary to abate an emergency situation or where required by law, the PLPs shall not perform any remedial actions at the Site outside those remedial actions required by this Order to address the contamination that is the subject of this Order, unless Ecology concurs, in writing, with such additional remedial actions pursuant to Section VIII.J. (Amendment of Order). In the event of an emergency, or where actions are taken as required by law, the PLPs must notify Ecology in writing of the event and remedial action(s) planned or taken as soon as practical but no later than within twenty-four (24) hours of the discovery of the event.

VIII. TERMS AND CONDITIONS

A. Payment of Remedial Action Costs

The PLPs shall pay to Ecology costs incurred by Ecology pursuant to this Order and consistent with WAC 173-340-550(2). These costs shall include work performed by Ecology or its contractors for, or on, the Site under RCW 70A.305D, including remedial actions and Order preparation, negotiation, oversight, and administration. These costs shall include work performed both prior to and subsequent to the issuance of this Order. Ecology's costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Ecology has accumulated \$4,491.66 in remedial action costs related to this Site as of December 31, 2020. For all Ecology costs incurred, the PLPs shall pay the required amount within thirty (30) days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general statement of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Pursuant to WAC 173-340-550(4), failure to pay Ecology's costs within ninety (90) days of receipt of the itemized statement of costs will result in interest charges at the rate of twelve percent (12%) per annum, compounded monthly.

In addition to other available relief, pursuant to RCW 19.16.500, Ecology may utilize a collection agency and/or, pursuant to RCW 70A.305.060, file a lien against real property subject to the remedial actions to recover unreimbursed remedial action costs.

B. Designated Project Coordinators

The project coordinator for Ecology is:

Tena Seeds
Toxics Cleanup Program – NWRO
Washington State Department of Ecology
3190 160th Avenue SE
Bellevue, WA 98008-5452
425-649-7008
tena.seeds@ecy.wa.gov

The project coordinator for Phillips 66 Company is:

Ed Ralston
Phillips 66 Company Remediation Management
76 Broadway
Sacramento, CA 95818
919-558-7633
Ed.C.Ralston@p66.com

The project coordinator for City Investors XI L.L.C. is:

Brandon Morgan
City Investors IX, L.L.C.
505 Fifth Avenue South, Suite 900
Seattle, WA 98104
206-342-2000
BrandonMo@vulcan.com

Each project coordinator shall be responsible for overseeing the implementation of this Order. Ecology's project coordinator will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and the PLPs, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project coordinators. The project coordinators may designate, in writing, working level staff contacts for all or portions of the implementation of the work to be performed required by this Order.

Any party may change its respective project coordinator. Written notification shall be given to the other party at least ten (10) calendar days prior to the change.

C. Performance

All geologic and hydrogeologic work performed pursuant to this Order shall be under the supervision and direction of a geologist or hydrogeologist licensed by the State of Washington or under the direct supervision of an engineer registered by the State of Washington, except as otherwise provided for by RCW 18.43, .220.

All engineering work performed pursuant to this Order shall be under the direct supervision of a professional engineer registered by the State of Washington, except as otherwise

provided for by RCW 18.43.130.

All construction work performed pursuant to this Order shall be under the direct supervision of a professional engineer or a qualified technician under the direct supervision of a professional engineer. The professional engineer must be registered by the State of Washington, except as otherwise provided for by RCW 18.43.130.

Any documents submitted containing geologic, hydrogeologic, or engineering work shall be under the seal of an appropriately licensed professional as required by RCW 18.43, .220. The PLPs shall notify Ecology in writing of the identity of any engineer(s) and geologist(s), contractor(s) and subcontractor(s), and others to be used in carrying out the terms of this Order, in advance of their involvement at the Site.

D. Access

Ecology or any Ecology authorized representative shall have access to enter and freely move about all property at the Site that one or both PLPs either owns, controls, or has access rights to, at all reasonable times for the purposes of, *inter alia*: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the PLPs' progress in carrying out the terms of this Order; conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by PLP(s). PLP(s) shall make all reasonable efforts to secure access rights for those properties within the Site not owned or controlled by PLP(s) where remedial activities or investigations will be performed pursuant to this Order. Ecology or any Ecology authorized representative shall give reasonable notice before entering any Site property owned or controlled by either PLP unless an emergency prevents such notice. All persons who access the Site pursuant to this section shall comply with any applicable health and safety plan(s). Ecology employees and their representatives shall not be required to sign any liability release or waiver as a condition of Site property access.

E. Sampling, Data Submittal, and Availability

With respect to the implementation of this Order, the PLPs shall make the results of all sampling, laboratory reports, and/or test results generated by it or on its behalf available to Ecology. pursuant to WAC 173-340-840(5), all sampling data shall be submitted to Ecology in both printed and electronic formats in accordance with Section VII (Work to be Performed), Ecology's Toxics Cleanup Program Policy 840 (Data Submittal Requirements), and/or any subsequent procedures specified by Ecology for data submittal.

If requested by Ecology, the PLPs shall allow Ecology and/or its authorized representative to take split or duplicate samples of any samples collected by the PLPs pursuant to implementation of this Order. The PLPs shall notify Ecology seven (7) days in advance of any sample collection or work activity at the Site. Ecology shall, upon request, allow the PLPs and/or their authorized representative to take split or duplicate samples of any samples collected by Ecology pursuant to the implementation of this Order, provided that doing so does not interfere with Ecology's sampling. Without limitation on Ecology's rights under Section VIII.E (Access), Ecology shall notify the PLPs prior to any sample collection activity unless an emergency prevents such notice.

In accordance with WAC 173-340-830(2)(a), all hazardous substance analyses shall be conducted by a laboratory accredited under WAC 173-50 for the specific analyses to be conducted, unless otherwise approved by Ecology.

F. Public Participation

Ecology shall maintain the responsibility for public participation at the Site. However, the PLPs shall cooperate with Ecology, and shall:

1. If agreed to by Ecology, develop appropriate mailing lists and prepare drafts of public notices and fact sheets at important stages of the remedial action, such as the submission of work plans, remedial investigation/feasibility study reports, cleanup action plans, and engineering design reports. As appropriate, Ecology will edit, finalize, and distribute such fact sheets and prepare and distribute public notices of Ecology's presentations and meetings.

2. Notify Ecology's project coordinator prior to the preparation of all press releases and fact sheets, and before meetings related to remedial action work to be performed at the Site with the interested public and/or local governments. Likewise, Ecology shall notify the PLPs prior to the issuance of all press releases and fact sheets related to the Site, and before meetings related to the Site with the interested public and local governments. For all press releases, fact sheets, meetings, and other outreach efforts by the PLPs that do not receive prior Ecology approval, the PLPs shall clearly indicate to their audience that the press release, fact sheet, meeting, or other outreach effort was not sponsored or endorsed by Ecology.

3. When requested by Ecology, participate in public presentations on the progress of the remedial action at the Site. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

4. When requested by Ecology, arrange and/or continue information repositories to be located at the following locations:

- a. Seattle Public Library
Central District
1000 4th Avenue
Seattle, WA 98104
- b. Ecology's Northwest Regional Office 3190
160th Ave SE
Bellevue, WA 98008

At a minimum, copies of all public notices, fact sheets, and documents relating to public comment periods shall be promptly placed in these repositories. A copy of all documents related to this Site shall be maintained in the repository at Ecology's Northwest Regional Office in Bellevue, Washington.

G. Retention of Records

During the pendency of this Order, and for ten (10) years from the date of completion of work performed pursuant to this Order, the PLPs shall preserve all records, reports, documents, and underlying data in their respective possession relevant to the implementation of this Order and shall insert a similar record retention requirement into all contracts with project contractors

and subcontractors. Upon request of Ecology, the PLPs shall make all records available to Ecology and allow access for review within a reasonable time.

Nothing in this Order is intended to waive any right the PLPs may have under applicable law to limit disclosure of documents protected by the attorney work-product privilege and/or the attorney-client privilege. If the PLPs or either of them withhold any requested records based on an assertion of privilege, each of the PLPs asserting such privilege shall provide Ecology with a privilege log specifying the records withheld and the applicable privilege. No Site-related data collected pursuant to this Order shall be considered privileged.

H. Resolution of Disputes

1. In the event that the PLPs, or either of them, elects to invoke dispute resolution, the PLPs must utilize the procedure set forth below.

a. Upon the triggering event (receipt of Ecology's project coordinator's written decision or an itemized billing statement), the PLP(s) have fourteen (14) calendar days within which to notify Ecology's project coordinator in writing of its/their dispute (Informal Dispute Notice).

b. The Parties' project coordinators shall then confer in an effort to resolve the dispute informally. The parties shall informally confer for up to fourteen (14) calendar days from receipt of the Informal Dispute Notice. If the project coordinators cannot resolve the dispute within those 14 calendar days, then within seven (7) calendar days Ecology's project coordinator shall issue a written decision (Informal Dispute Decision) stating: the nature of the dispute; the PLP(s)' position with regards to the dispute; Ecology's position with regards to the dispute; and the extent of resolution reached by informal discussion.

c. The PLP(s) may then request regional management review of the dispute. This request (Formal Dispute Notice) must be submitted in writing to the Northwest Region Toxics Cleanup Section Manager within seven (7) calendar days of receipt of Ecology's Informal Dispute Decision. The Formal Dispute Notice shall include a written

statement of dispute setting forth: the nature of the dispute; the disputing Party's position with respect to the dispute; and the information relied upon to support its position.

d. The Section Manager shall conduct a review of the dispute and shall issue a written decision regarding the dispute (Decision on Dispute) within thirty (30) calendar days of receipt of the Formal Dispute Notice. The Decision on Dispute shall be Ecology's final decision on the disputed matter.

2. The Parties agree to only utilize the dispute resolution process in good faith and agree to expedite, to the extent possible, the dispute resolution process whenever it is used.

3. Implementation of these dispute resolution procedures shall not provide a basis for delay of any activities required in this Order, unless Ecology agrees in writing to a schedule extension.

4. In case of a dispute, failure to either proceed with the work required by this Order or timely invoke dispute resolution may result in Ecology's determination that insufficient progress is being made in preparation of a deliverable, and may result in Ecology undertaking the work under Section VII.E (Work to be Performed) or initiating enforcement under Section X (Enforcement).

I. Extension of Schedule

1. A PLP's request for an extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, generally at least thirty (30) days prior to expiration of the deadline for which the extension is requested, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify:

- a. The deadline that is sought to be extended.
- b. The length of the extension sought.
- c. The reason(s) for the extension.
- d. Any related deadline or schedule that would be affected if the extension were granted.

2. The burden shall be on the requesting PLP(s) to demonstrate to the satisfaction

of Ecology that the request for such extension has been submitted in a timely fashion and that good cause exists for granting the extension. Good cause may include, but may not be limited to:

- a. Circumstances beyond the reasonable control and despite the due diligence of the PLPs including delays caused by unrelated third parties or Ecology, such as (but not limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by the PLPs.
- b. Acts of God, including fire, flood, blizzard, extreme temperatures, storm, or other unavoidable casualty;
- c. A shelter in place or work stoppage mandated by government order due to public health and safety emergencies; or
- d. Endangerment as described in Section VIII.K (Endangerment).

However, neither increased costs of performance of the terms of this Order nor changed economic circumstances shall be considered circumstances beyond the reasonable control of the PLPs.

3. Ecology shall act upon any PLP's written request for extension in a timely fashion. Ecology shall give the PLPs written notification of any extensions granted pursuant to this Order. A requested extension shall not be effective until approved by Ecology. Unless the extension is a substantial change, it shall not be necessary to amend this Order pursuant to Section VIII.J (Amendment of Order) when a schedule extension is granted.

4. At any PLP's request, an extension shall only be granted for such period of time as Ecology determines is reasonable under the circumstances. Ecology may grant schedule extensions exceeding ninety (90) days only as a result of one of the following:

- a. Delays in the issuance of a necessary permit which was applied for in a timely manner.
- b. Other circumstances deemed exceptional or extraordinary by Ecology.
- c. Endangerment as described in Section VIII.K (Endangerment).

J. Amendment of Order

The project coordinators may verbally agree to minor changes to the work to be performed without formally amending this Order. Minor changes will be documented in writing by Ecology within seven (7) days of verbal agreement.

Except as provided in Section VIII.L (Reservation of Rights), substantial changes to the work to be performed shall require formal amendment of this Order. This Order may only be formally amended by the written consent of both Ecology and the PLPs. Ecology will provide its written consent to a formal amendment only after public notice and opportunity to comment on the formal amendment.

When requesting a change to the Order, the PLPs shall submit a written request to Ecology for approval. Ecology shall indicate its approval or disapproval in writing and in a timely manner after the written request is received. If Ecology determines that the change is substantial, then the Order must be formally amended. Reasons for the disapproval of a proposed change to this Order shall be stated in writing. If Ecology does not agree to a proposed change, the disagreement may be addressed through the dispute resolution procedures described in Section VIII.H (Resolution of Disputes).

K. Endangerment

In the event Ecology determines that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment on or surrounding the Site, Ecology may direct the PLPs to cease such activities for such period of time as it deems necessary to abate the danger. The PLPs shall immediately comply with such direction.

In the event the PLPs determine that any activity being performed at the Site under this Order is creating or has the potential to create a danger to human health or the environment, the PLPs may cease such activities. The PLPs shall notify Ecology's project coordinator as soon as possible, but no later than twenty-four (24) hours after making such determination or ceasing such activities. Upon Ecology's direction, the PLPs shall provide Ecology with documentation

of the basis for the determination or cessation of such activities. If Ecology disagrees with the PLPs' cessation of activities, it may direct the PLPs to resume such activities.

If Ecology concurs with or orders a work stoppage pursuant to this section, the PLPs' obligations with respect to the ceased activities shall be suspended until Ecology determines the danger is abated, and the time for performance of such activities, as well as the time for any other work dependent upon such activities, shall be extended in accordance with Section VIII.I (Extension of Schedule) for such period of time as Ecology determines is reasonable under the circumstances.

Nothing in this Order shall limit the authority of Ecology, its employees, agents, or contractors to take or require appropriate action in the event of an emergency.

L. Reservation of Rights

This Order is not a settlement under RCW 70A.305D. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any of Ecology's rights or authority. Ecology will not, however, bring an action against the PLPs to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against the PLPs regarding remedial actions required by this Order, provided the PLPs comply with this Order.

Ecology nevertheless reserves its rights under RCW 70A.305D, including the right to require additional or different remedial actions at the Site should it deem such actions necessary to protect human health or the environment, and to issue orders requiring such remedial actions. Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances at the Site.

By entering into this Order, the PLPs do not admit to any liability for the Site. Although the PLPs are committing to conducting the work required by this Order under the terms of this Order, the PLPs, and each of them, expressly reserve all rights available under law, including but not limited to the right to seek cost recovery or contribution against third parties, and the right to assert any defenses to liability in the event of enforcement.

M. Transfer of Interest in Property

No voluntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by the PLPs, or either of them, without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer by a PLP of any interest in all or any portion of the Site, and during the effective period of this Order, the transferring PLP(s) shall provide a copy of this Order to any prospective purchaser, lessee, transferee, assignee, or other successor in said interest; and, at least thirty (30) days prior to any transfer, the transferring PLP(s) shall notify Ecology of said transfer. Upon transfer of any interest, the transferring PLP(s) shall notify all transferees of the restrictions on the activities and uses of the property under this Order and incorporate any such use restrictions into the transfer documents.

N. Compliance with Applicable Laws

1. *Applicable Laws.* All actions carried out by the PLPs pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits or approvals, except as provided in RCW 70A.305.090. At this time, no federal, state, or local requirements have been identified as being applicable to the actions required by this Order. The PLPs have a continuing obligation to identify additional applicable federal, state, and local requirements which apply to actions carried out pursuant to this Order, and to comply with those requirements. As additional federal, state, and local requirements are identified by Ecology or the PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order, and the PLPs must implement those requirements.

2. *Relevant and Appropriate Requirements.* All actions carried out by the PLPs pursuant to this Order shall be done in accordance with relevant and appropriate requirements identified by Ecology. At this time, no relevant and appropriate requirements have been identified as being applicable to the actions required by this Order. If additional relevant and

appropriate requirements are identified by Ecology or the PLPs, Ecology will document in writing if they are applicable to actions carried out pursuant to this Order and the PLPs must implement those requirements.

3. Pursuant to RCW 70A.305.090(1), the PLPs may be exempt from the procedural requirements of RCW 70A.15, 70A.205, 70A.305, 77.55, 90.48, and 90.58 and of any laws requiring or authorizing local government permits or approvals. However, the PLPs shall comply with the substantive requirements of such permits or approvals. For permits and approvals covered under RCW 70A.305.090(1) that have been issued by local government, the Parties agree that Ecology has the non-exclusive ability under this Order to enforce those local government permits and/or approvals. At this time, no state or local permits or approvals have been identified as being applicable but procedurally exempt under this section.

4. The PLPs have a continuing obligation to determine whether additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order. In the event either Ecology or the PLPs determine that additional permits or approvals addressed in RCW 70A.305.090(1) would otherwise be required for the remedial action under this Order, it/they shall promptly notify the other Parties of its/their determination. Ecology shall determine whether Ecology or the PLPs shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, the PLPs shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by the PLPs and on how the PLPs must meet those requirements. Ecology shall inform the PLPs in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. The PLPs shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Pursuant to RCW 70A.305.090(2), in the event Ecology determines that the exemption

from complying with the procedural requirements of the laws referenced in RCW 70A.305.090(1) would result in the loss of approval from a federal agency that is necessary for the state to administer any federal law, the exemption shall not apply and the PLPs shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70A.305.090(1), including any requirements to obtain permits or approvals.

O. Periodic Review

So long as remedial action continues at the Site, the Parties agree to review the progress of remedial action at the Site, and to review the data accumulated as a result of monitoring the Site as often as is necessary and appropriate under the circumstances. Unless otherwise agreed to by Ecology, at least every five (5) years after the initiation of cleanup action at the Site the Parties shall confer regarding the status of the Site and the need, if any, for further remedial action at the Site. Ecology reserves the right to require further remedial action at the Site under appropriate circumstances. This provision shall remain in effect for the duration of this Order.

P. Indemnification

The PLPs agree to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action (1) for death or injuries to persons, or (2) for loss or damage to property, to the extent arising from or on account of acts or omissions of the PLPs, or either of them, and their respective officers, employees, agents, or contractors in entering into and implementing this Order. However, the PLPs shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into or implementing this Order.

IX. SATISFACTION OF ORDER

The provisions of this Order shall be deemed satisfied upon the PLPs' receipt of written notification from Ecology that the PLPs have completed the remedial activity required by this Order, as amended by any modifications, and that the PLPs have complied with all other provisions of this Agreed Order.

X. ENFORCEMENT

Pursuant to RCW 70A.305.050, this Order may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Order in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. A liable party who refuses, without sufficient cause, to comply with any term of this Order will be liable for:
1. Up to three (3) times the amount of any costs incurred by the State of Washington as a result of its refusal to comply.
 2. Civil penalties of up to twenty-five thousand dollars (\$25,000) per day for each day it refuses to comply.
- D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70A.305.070.

Effective date of this Order: May 4, 2021

PHILLIPS 66 COMPANY



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562-290-1553

STATE OF WASHINGTON
DEPARTMENT OF
ECOLOGY



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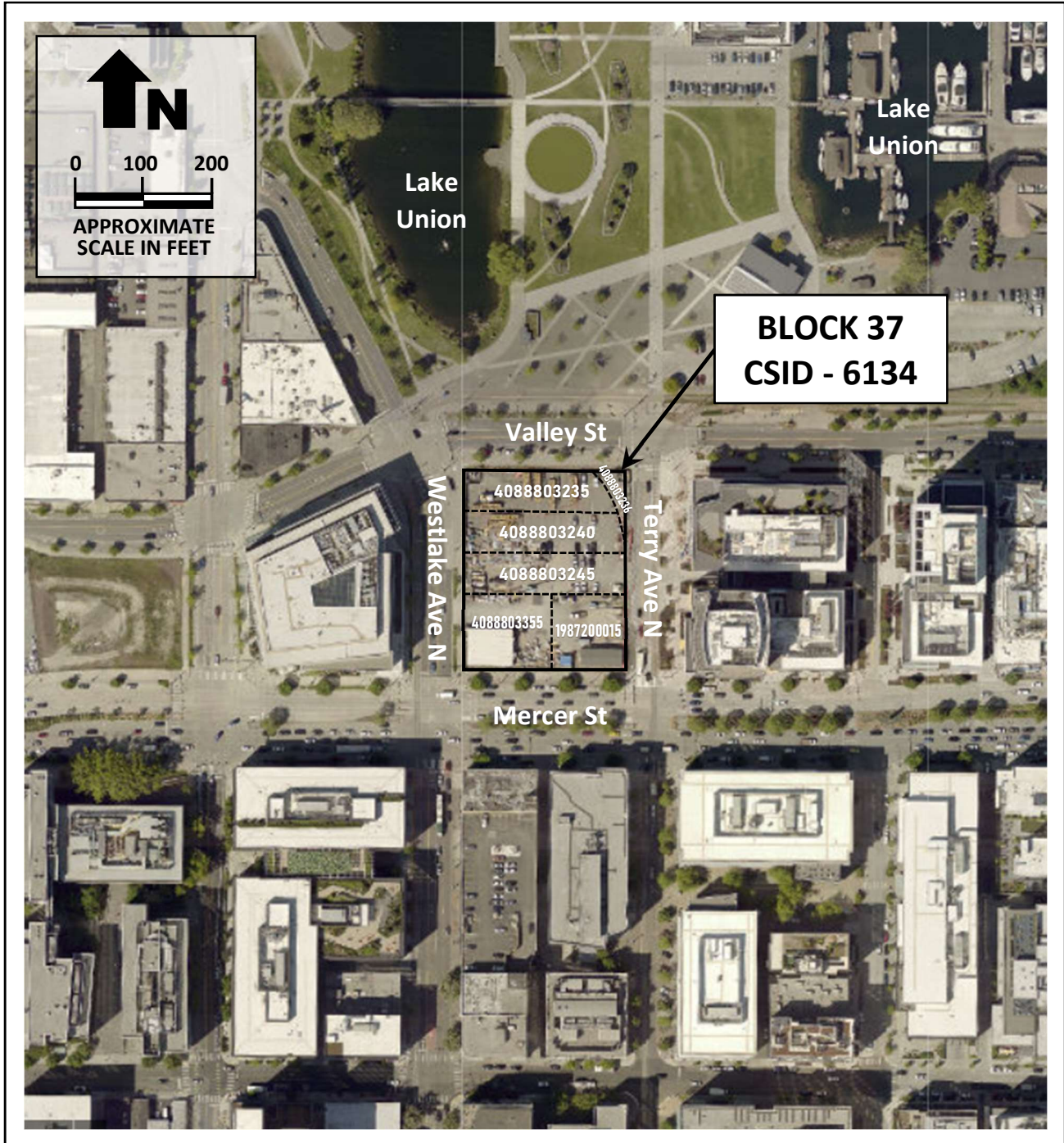
Agreed Order No. DE 19430
Page 24 of 24

CITY INVESTORS XI L.L.C.



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EXHIBIT A – LOCATION DIAGRAM



———— Block 37 Property Boundary

----- Block 37 Parcels

EXHIBIT B – SCOPE OF WORK

Block 37

PURPOSE

The work under this Agreed Order (AO) involves conducting a Remedial Investigation (RI) and Feasibility Study (FS), conducting interim actions if required or agreed to by Ecology, and preparing a preliminary Draft Cleanup Action Plan (DCAP). The purpose of the RI, FS, and preliminary DCAP for the site is to provide sufficient data, analysis, and evaluations to enable Ecology to select a cleanup alternative for the site.

The PLPs shall coordinate with Ecology throughout the work under this AO, and shall keep Ecology informed of changes to any work plan or other project plans, and of any issues or problems as they develop.

The Scope of Work (SOW) is divided into eight (8) major tasks as follows:

- Task 1. Remedial Investigation Work Plan
- Task 2. Remedial Investigation
- Task 3. Interim Action(s) (if required)
- Task 4. Feasibility Study
- Task 5. State Environmental Policy Act (SEPA) Compliance
- Task 6. Public Participation
- Task 7. Preliminary Draft Cleanup Action Plan
- Task 8. Progress Reports

To assist with preparation of these documents, Ecology's Toxics Cleanup Program (TCP) has developed checklists, which the PLPs shall use for the following remedial action reports and plans.

- Remedial Investigation Report Checklist
- Feasibility Study Report Checklist
- Cleanup Action Plan Checklist

The checklists can be downloaded directly from the following website:

<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Cleanup-report-checklists-and-templates>.

Policy 840 Environmental Information Management System (EIM):

Ecology has updated Policy 840 related to data submittal requirements for TCP sites. Policy 840 requires environmental monitoring data collected at TCP sites as part of site

investigations and cleanups to be submitted into EIM at the time of submittal for Ecology review of any report containing this data.

TASK 1. REMEDIAL INVESTIGATION WORK PLAN

The PLPs shall prepare a Remedial Investigation Work Plan (RI Work Plan). The RI Work Plan shall include an overall description and schedule of all RI activities. The RI Work Plan shall clearly describe the project management strategy for implementing and reporting on RI activities. The responsibility and authority of all organizations and key personnel involved in conducting the RI will be outlined.

A key project meeting will be held prior to submittal of the RI work plan. The purpose of the Remedial Investigation planning meeting is to review requirements for the RI work plan and RI field work, discuss the preliminary conceptual site model, and identify project data needs and possible interim actions.

The RI work plan shall describe general facility information; site history and conditions, including previous operations; past field investigations, including any data collection and analysis of soils, air, groundwater, surface water and sediments; a conceptual site model showing contaminants, migration pathways in all environmental media, and potential receptors; geology and groundwater system characteristics; past, current, and future land use; identification of natural resources and ecological receptors; hazardous substances and their sources, etc., in compliance with WAC 173-340-350.

As part of the project background, existing environmental data on site soil, groundwater, air, surface water, and sediments will be compiled and evaluated for data gaps. The data gaps will be used as the basis for conducting additional site investigations, if necessary. The RI Work Plan will also identify specific data collection procedures in a Sampling and Analysis Plan (SAP) and Quality Assurance Project Plan (QAPP) as part of the RI Work Plan in compliance with WAC 173-340-820 for defining the nature and extent of contamination. The PLPs will also submit a copy of the Health and Safety Plan (HASP) for the project and an Inadvertent Discovery Plan, if applicable.

The SAP will identify the proposed number and location of all environmental samples and methods, including soil borings, groundwater monitoring wells, soil, groundwater, air, stormwater, seep, catch basin and sediment samples, approximate depths and corresponding elevations relative to the North American Vertical Datum of 1988 (NAVD88), and will include a QAPP. The SAP will describe the sampling objectives, the rationale for the sampling approach (based upon the identified data gaps), and plans for data use, and shall provide a detailed description of sampling tasks. The SAP shall describe specifications for sample identifiers; sampling equipment; the type, number, and location of samples to be collected; the analyses to be performed; descriptions of sampling equipment and methods to be used; sample documentation; sample containers, collection and handling; data and records management; and schedule.

The QAPP will be prepared in accordance with the Guidance for Quality Assurance Project Plans, QA/R-5 and requirements of the EPA Contract Laboratory Program. The QAPP will also follow Ecology's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (Revised December 2016)¹. Laboratories must meet the accreditation standards established in WAC 173-50.

The SAP, including the QAPP, will be submitted to Ecology for review and approval. As with all environmental work at the Site, work may not begin without written approval from Ecology. The plan shall provide seven (7) days' notice to Ecology prior to beginning sampling. Ecology may obtain split samples.

The PLPs or their contractors shall submit to Ecology all new sampling data generated under this SAP and any other Site data used in the RI. Data must be submitted in table format and also entered into the Environmental Information Management System (EIM) in accordance with WAC 173-340-840(5) and Ecology's Toxics Cleanup Program Policy 840 Data Submittal Requirements. Only validated data will be entered into the EIM database within thirty (30) days of submittal; provided, however, that validated data with respect to the Site existing as of the effective date of the AO shall be entered into the EIM database not more than ninety (90) days after such effective date.

RI Work Plan tasks and subtasks may include, but are not limited to soil, groundwater, air, stormwater, sumps, surface water, sediments and catch basin sampling and analysis, as necessary to address data gaps identified in the RI Work Plan.

The PLPs will provide Ecology with an Agency Review Draft RI Work Plan. Once Ecology reviews and approves the RI Work Plan, it will be considered the Final RI Work Plan. The RI Work Plan shall not be implemented until approved by Ecology. Once approved by Ecology, the PLPs will implement the Final RI Work Plan according to the schedule contained in Exhibit C.

The PLPs shall prepare electronic copies of the Agency Review Draft RI Work Plan in Word (.doc) and Adobe (.pdf) formats, along with one hard copy upon request by Ecology, and submit to Ecology for review and comment. After incorporating Ecology's comments on the Agency Review Draft RI Work Plan and after Ecology approval, the PLPs shall prepare up to two (2) hard copies of the Final RI Work Plan and submit them, including one electronic copy in Adobe (.pdf) format, to Ecology.

TASK 2. REMEDIAL INVESTIGATION

The PLPs shall conduct an RI that meets the requirements of WAC 173-340-350(7) according to the RI Work Plan as approved by Ecology. The RI will determine the nature and extent of contamination exceeding preliminary Model Toxics Control Act (MTCA) cleanup levels, and other regulatory requirements. The RI must provide sufficient data and information to define the nature and extent of contamination.

¹ Found at <https://fortress.wa.gov/ecy/publications/summarypages/0403030.html>

Field sampling and analysis will be completed in general accordance with the SAP and QAPP. Deviation(s) from the approved SAP and QAPP must be communicated to Ecology immediately and documented as required by Ecology.

The PLPs shall provide interim data reports and updates to Ecology as new site data and information become available. Laboratory analysis data shall also be provided in electronic format when it has been validated. Raw laboratory data will be provided to Ecology upon request.

Prior to submittal of the Agency Review Draft RI Report, a Key Project Meeting will be held. During the Remedial Investigation Pre-Report Check-In, Ecology and the PLPs will review available data and an updated conceptual site model and discuss the content and organization of the Draft RI Report.

The PLPs shall compile the results of the Site investigation into an Agency Review Draft RI Report. The PLPs shall prepare one (1) hard copy of the Agency Review Draft RI Report and submit it, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and comment.

After incorporating Ecology's comments on the Agency Review Draft RI Report the PLPs shall prepare up to three (3) hard copies upon request of a Public Review Draft RI Report and submit them, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. Electronic data files, including survey data for monitoring locations, laboratory data, and maps of contaminant distribution, shall also be provided for both the Agency Review Draft RI Report and Public Review Draft RI Reports. The RI Report will not be considered Final until after a public review and comment period.

After incorporating Ecology's comments, subsequent to public comment, on the Public Review Draft RI Report and after Ecology approval, the PLPs shall prepare up to two (2) hard copies of the Final RI Report and submit them, including one electronic copy in Adobe (.pdf) format, to Ecology.

If the data collected during this investigation is insufficient to define the nature and extent of contamination, and/or to select a cleanup action, an additional phase of investigation shall be conducted to define the extent of contamination.

TASK 3. INTERIM ACTIONS (if required)

Remedial actions implemented prior to completion of the RI and/or FS, including those that:

- are technically necessary to reduce a threat to human health or the environment by eliminating or substantially reducing one or more pathways for exposure to a hazardous substance;

- correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed; or
- are needed to provide for completion of the remedial investigation/feasibility study or design of the cleanup action

will be considered interim actions, will be implemented in accordance with WAC 173-340-430 and the AO, and will be designed in a manner that will not foreclose reasonable alternatives for any final cleanup action that may be required.

As detailed in the AO, if required by Ecology, or if proposed by the PLPs and approved by Ecology, the PLPs will implement an interim action. Based upon information in the Agency Review Draft RI Report, interim action(s) may be needed to expedite control of releases to environmental media pursuant to WAC 173-340-430.

If an interim action is to be performed, the PLPs will prepare and submit for Ecology approval an Agency Review Draft Interim Action Work Plan (IAWP) with detail commensurate with the work to be performed. The Agency Review Draft IAWP shall include, as appropriate:

- Description of the interim action including its purpose, general requirements, and relationship to the (final) cleanup action (to the extent known);
- Summary of relevant information, including at a minimum existing site conditions and alternative interim actions considered;
- Information regarding design and construction requirements, including a proposed schedule and personnel roles and responsibilities;
- Compliance Monitoring Plan;
- SAP/QAPP
- Permits required.

The PLPs will also submit a copy of the Health and Safety Plan for the project. The PLPs will be responsible for complying with the State Environmental Policy Act (SEPA) Rules including preparing and submitting an environmental checklist for the interim action, and will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

The PLPs shall prepare electronic copies of the Agency Review Draft IAWP in Word (.doc) and Adobe (.pdf) formats, and one (1) hard copy upon request, and submit it to Ecology for review. The PLPs shall incorporate Ecology's comments and then prepare up to three (3) copies upon request of the Public Review Draft IAWP and submit them, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology. After a public notice and comment period for the Public Review Draft IAWP (and SEPA determination), Ecology will approve the IAWP (if appropriate) and the document will be considered Final. The PLPs shall prepare up to two (2) hard copies of the Final IAWP and submit them, along with one electronic copy in Adobe (.pdf) format. Once approved by Ecology, the PLPs will implement the interim action according to the approved schedule.

Upon successful completion of the work, an Agency Review Draft Interim Action Report will be prepared as a separate deliverable. The PLPs shall prepare one (1) hard copy of the Agency Review Draft Interim Action Report and submit it, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval. After incorporating Ecology's comments on the Agency Review Draft Interim Action Report and after Ecology approval, the PLPs shall prepare up to two (2) copies of the Final Interim Action Report and submit them, along with one electronic copy in Adobe (.pdf) format, to Ecology.

TASK 4. FEASIBILITY STUDY

The PLPs shall use the information obtained in the RI to prepare an Agency Review Draft FS that meets the applicable requirements of WAC 173-340-350(8) according to the Schedule in Exhibit C. The Agency Review Draft FS will evaluate remedial alternatives for site cleanup, consistent with MTCA requirements to ensure protection of human health and the environment by eliminating, reducing, or otherwise controlling risk posed through each exposure pathway and migration route.

Prior to beginning the FS, a Key Project Meeting will be held to review ARARs, potential remedial alternatives, establish points of compliance, and potentially applicable cleanup levels and remediation levels.

The Agency Review Draft FS will provide a detailed analysis of each remedial alternative according to the applicable requirements of WAC 173-340-350, MTCA Remedial Investigation and Feasibility Study. The remedial alternatives will be evaluated for compliance with the applicable requirements of WAC 173-340-360, Selection of Cleanup Actions, including a detailed evaluation of remedial alternatives relative to the following criteria:

- Compliance with Cleanup Standards and Applicable Laws
- Protection of Human Health
- Protection of the Environment
- Provision for a Reasonable Restoration Time Frame
- Use of Permanent Solutions to the Maximum Extent Practicable
- The Degree to which Recycling, Reuse, and Waste Minimization are Employed
- Short-Term Risks
- Long-Term Effectiveness
- Net Environmental Benefit (if applicable)
- Implementability
- Provision for Compliance Monitoring
- Cost-Effectiveness
- Prospective Community Acceptance

The remedial alternative that is judged to best satisfy the evaluation criteria will be identified. Justification for the selection will be provided, and the recommended remedial alternative further developed, in the FS Report.

The PLPs shall prepare electronic copies in Word (.doc) and Adobe (.pdf) formats of the Agency Review Draft FS, and one (1) hard copy upon request, and submit them to Ecology for review. After addressing Ecology's comments on the Agency Review Draft FS, the PLPs shall prepare up to three (3) hard copies upon request of the Public Review Draft FS and submit them, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for distribution and public comment. The FS will not be considered Final until after a public review and comment period.

After incorporating Ecology's comments, subsequent to public comment, on the Public Review Draft FS and after Ecology approval, the PLPs shall prepare up to two (2) hard copies of the Final Report and submit them, including one electronic copy in Adobe (.pdf) format, to Ecology.

TASK 5. SEPA COMPLIANCE

The PLPs shall be responsible for complying with the SEPA Rules including preparing and submitting an environmental checklist or a lawful addendum to an existing project environmental impact statement that addresses all the potential concerns associated to the MTCA actions for this Site. Ecology reserves its substantive SEPA authority to condition the remedial action, as appropriate. The PLPs shall assist Ecology with coordinating SEPA public involvement requirements with MTCA public involvement requirements whenever possible, such that public comment periods and meetings or hearings can be held concurrently, if required.

TASK 6. PUBLIC PARTICIPATION

The PLPs shall support Ecology in presenting the Public Review Draft RI Report and the Public Review Draft FS Report and SEPA evaluations at one public meeting or hearing, if required by Ecology. The PLPs will assist Ecology with presentations at any additional meetings or hearings that might be necessary for SEPA compliance or as part of the Public Participation Plan.

After the public comment periods are completed, the PLPs shall prepare an Agency Review Draft Responsiveness Summary that addresses public comments, if applicable. The PLPs shall prepare two (2) copies of the Agency Review Draft Responsiveness Summary, including one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review, approval, and distribution.

After addressing Ecology's comments and after Ecology approval, the PLPs shall prepare up to three (3) hard copies upon request of the Final Responsiveness Summary and submit them to Ecology for distribution, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 7. PRELIMINARY DRAFT CLEANUP ACTION PLAN

Upon Ecology approval of the Final RI Report and Final FS, a Key Project Meeting will be held regarding the Cleanup Action Plan. The Cleanup Action Plan Meeting will be used to review plans for developing the Agency Review preliminary Draft Cleanup Action Plan (DCAP).

The PLPs shall prepare an Agency Review preliminary DCAP in accordance with WAC 173-340-380 that provides a proposed remedial action to address the contamination present on the Site. The preliminary DCAP shall include a general description of the proposed remedial action, cleanup standards developed from the RI/FS and rationale regarding their selection, a schedule for implementation, description of any institutional controls proposed, and a summary of applicable local, state, and federal laws pertinent to the proposed remedial action.

The PLPs will submit an Agency Review preliminary DCAP for Ecology's review. The Agency Review preliminary DCAP will include, but not be limited to, the information listed under WAC 173-340-380. The PLPs shall prepare one (1) hard copy of the Agency Review preliminary DCAP and submit it, along with one electronic copy each in Word (.doc) and Adobe (.pdf) formats, to Ecology for review and approval.

After receiving Ecology's comments on the Agency Review preliminary DCAP, if any, the PLPs shall revise the preliminary DCAP to address Ecology's comments. If requested by Ecology, the PLPs shall submit up to three (3) copies upon request of the Public Review DCAP including one electronic copy each in Word (.doc) and Adobe (.pdf) formats.

TASK 8. PROGRESS REPORTS

The PLPs will submit Progress Reports on a monthly basis to Ecology; this submittal frequency will be revisited after completion of the RI until satisfaction of the AO, in accordance with Section VII.C of the AO. Progress Reports will be submitted to the Ecology project coordinator by the fifteenth (15th) of the month following the reporting period. If this day is a weekend or holiday, Progress Reports will be submitted to Ecology on the next business day. At a minimum, Progress Reports will contain the following information regarding the preceding reporting period:

- A description of the actions which have been taken to comply with the AO;
- Summaries of sampling and testing reports and other data reports received by the PLPs;
- Summaries of deviations from approved Work Plans;
- Summaries of contacts with representatives of the local community, public interest groups, press, and federal, state, or tribal governments;
- Summaries of problems or anticipated problems in meeting the schedule or objectives set forth in the SOW and Work Plan(s);
- Summaries of solutions developed and implemented or planned to address any

- actual or anticipated problems or delays;
- Changes in key personnel; and
- A description of work planned for the next reporting period.

EXHIBIT C: SCHEDULE OF DELIVERABLES

Deliverable	Due Date
Monthly Progress Reports	Due on the 15 th each month, beginning after the first full month following the effective date of this AO
Agency Review Draft Remedial Investigation Work Plan and existing data submittal into EIM	No later than 90 days (3 months) after the effective date of this agreed order
Final Remedial Investigation Work Plan	30 days after receipt of Ecology comments
Remedial Investigation field investigations completed	180 days (6 months) after submittal of Final Remedial Investigation Work Plan
Submittal of remedial investigation validated data	No later than 60 days after completion of remedial investigation field activities
Agency Review Draft Remedial Investigation Report	90 days (3 months) following receipt of remedial investigation validated data
Public Review Draft Remedial Investigation Report	45 days after receipt of Ecology comments on Agency Review Draft Remedial Investigation Report
Agency Review Draft Feasibility Study Report	90 days (3 months) following Ecology's letter to proceed with the feasibility study
Public Review Draft Feasibility Study Report	45 days following Ecology's comments on the Agency Review Draft Feasibility Study Report
Final Remedial Investigation Report	30 days after receipt of Ecology comments, subsequent to public comment
Final Feasibility Study Report	30 days after receipt of Ecology comments, subsequent to public comment
Agency Review preliminary Draft Cleanup Action Plan (DCAP)	90 days (3 months) following approval of Final Feasibility Study